

REMARKS

Claims 1-19 were examined in the most recent non-final Office Action, dated April 26, 2006. Claims 1-12 and 17-19 stand rejected as obvious over various combinations of Davis et al, U.S. Patent No. 5,899,692, Robinson, U.S. Patent No. 4,807,599, and Schlachter, U.S. Patent No. 4,648,838. The Office action also requests that claim language should be placed in U.S. form. Claims 13-16 stand withdrawn as drawn to a non-elected invention, and have been canceled herein. Claims 20 and 21 have been added.

Claims 1, 2, 4-12, 17, and 19 are Allowable.

Applicants respectfully traverse the rejection to independent claim 1 as obvious under 35 U.S.C. § 103 over Davis in view of Robinson. Neither of the applied references disclose or suggest the element of a latching device having a latching nose directly or indirectly arranged on the light emission element, wherein the latching nose can spring in radially inwardly and can self-actingly spring out behind a latching edge on the plug-in fitting.

As admitted in the Office action, Davis fails to disclose a latching device at all. Davis simply discloses a syringe tip 614 that is secured by a locking cap 630.

As also admitted in the Office action, Robinson fails to disclose a latching nose directly or indirectly arranged on the light emission element that can spring in radially inwardly. However, the Office argues that to “locate the latch on the light emission element would be an obvious matter of choice in the reversal of the location of known elements to the skilled artisan.” Office action at page 3. Accordingly, the examiner has taken official notice of this alleged fact without relying on any documentary evidence for support.

Applicant hereby respectfully traverses that official notice is proper in this situation. “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” MPEP § 2144.03(A). The Office action provides no indication that it is common knowledge to arrange a light emission element with a latching nose that can spring in radially inwardly. In contrast, the only documentary evidence indicates that it is only known that the light emission element is a passive element restrained by a latch *unconnected* to the light emission element. While latches in general may be known, a latching nose directly or indirectly arranged on a light emission element is not “capable of instant and unquestionable demonstration as being well-known.”

Moreover, the only documentary evidence teaches away from a latching nose arranged on light emission element that can spring in radially inwardly. Robinson, the only reference that discloses a latching device at all, discloses that the light emission element 14 should be rigid to resist bending of the blade during use. “In order to provide sufficient rigidity along the length of the blade...” Robinson, col. 5, lines 12-13. “In this manner, bending of the blade 14 during use is resisted.” *Id.*, col. 5, lines 20-21. Because Robinson directly teaches that the blade 14 should be rigid, Robinson fails to suggest a latching nose on the blade 14 that can spring radially inward. Again, Davis fails to disclose a latch at all. Because none of the cited references disclose or suggest the noted claim elements, claim 1 is allowable. Dependent claims 2, 4-12, 17, and 19 are allowable for at least the same reasons.

With specific regard to certain of the dependent claims, claim 2 recites that the latching nose can spring in through an externally accessible hole in the remaining region of the functional

handpiece. None of the cited references discloses or suggests this structure. With regard to claim 4, none of the cited references discloses or suggests a stepless transition between the light emission element and the outer surface of the remaining region of the functional handpiece. With regard to claim 7, none of the cited references discloses or suggests a latching nose arranged on a rearwardly upstanding spring arm. The office action again improperly takes official notice of these alleged facts without citing to any documentary evidence. Allowance of claims 1, 2, 4-12, 17, and 19 is respectfully requested.

Claims 3, 18, 20, and 21 are Allowable.

As amended, applicants request withdrawal of the rejection to claim 3 as obvious over Robinson in view of Davis. Neither reference discloses or suggests a light emission element that extends out from the remaining region of the handpiece a length that is not substantially longer than its width. Support for this amendment can be found in Figs. 2 and 4.

Both Davis and Robinson disclose light emission elements that extend a distance from their respective handles that is significantly longer than their width. Accordingly, claim 3 is novel over the cited references.

Further, neither reference suggests such a construction. In Davis, the handle has a large diameter, and the syringe tip is long and narrow. The long syringe is inserted into the patient's mouth to illuminate the oral cavity. If the syringe were not substantially longer than its width, the syringe could not be inserted into the patient's mouth without the large handle (and the dentist's hand) also being inserted. This would destroy the dentist's view inside the patient's mouth. Accordingly, the claimed features would destroy the functionality of Davis's device. Robinson's

device would not only have this same problem, but is also could not function as a tongue depressor if the blade 14 were not substantially longer than its width. Because the devices disclosed in both references could not function as recited in the claims, no rejection even based in part may be made based on Robinson. Accordingly, claim 3 is allowable over the art of record. Dependent claims 18 and 20 are allowable for at least the same reasons.

Further, claim 20 recites that the light is emitted both forwardly and to the side. Support for this can be found on page 6, lines 13-16 (the device “in functional operation emits light forwardly and to all sides, emphasized by light rays 5”). Both Davis and Robinson disclose that light should travel down the elements and only be emitted forwardly. See Davis, abstract (“Light from the light source will be transmitted down the length of the syringe tip and emitted from the end thereof”), and Robinson, col. 4, lines 43-49 (“The light impinging on rear surface 80 will be conducted along the length of the blade 14 to the distal end thereof. The upper surface 82 and the lower surface 84 of blade 14 preferably are made smooth and uninterrupted so as to enhance total internal reflection and minimize any loss of light through these surfaces.”). Accordingly, no reference discloses or suggests the limitations of claim 20.

Claim Language.

The Office action requests that applicant should check all claim language and place in U.S. form. Applicant believes all pending claim language complies with 35 U.S.C. § 112. If the office believes any particular claim language should be changed, applicants request a specific indication thereof.

CONCLUSION

In view of this amendment, Applicants submit the pending application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

No fee is believed due at this time. If any fee is due, please charge our Deposit Account No. 13-2855, under Order No. 30815/26878, from which the undersigned is authorized to draw.

Respectfully submitted,

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